

**United States Court of Appeals for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007**

**ROBERT A. KATZMANN**  
CHIEF JUDGE

Date: November 17, 2016

Docket #: 16-3877

Short Title: Paulsen v. Primeflight Aviation Services,

**CATHERINE O'HAGAN WOLFE**  
CLERK OF COURT

DC Docket #: 16-cv-5338

DC Court: EDNY (BROOKLYN)

DC Judge: Cogan

**DOCKETING NOTICE**

A notice of appeal filed by Primeflight Aviation Services, Inc. in the above referenced case was docketed today as 16-3877. This number must appear on all documents related to this case that are filed in this Court. For pro se parties the docket sheet with the caption page, and an Acknowledgment and Notice of Appearance Form are enclosed. In counseled cases the docket sheet is available on PACER. Counsel must access the Acknowledgment and Notice of Appearance Form from this Court's website <http://www.ca2.uscourts.gov>.

The form must be completed and returned within 14 days of the date of this notice. The form requires the following information:

**YOUR CORRECT CONTACT INFORMATION:** Review the party information on the docket sheet and note any incorrect information in writing on the Acknowledgment and Notice of Appearance Form.

The Court will contact one counsel per party or group of collectively represented parties when serving notice or issuing our order. Counsel must designate on the Acknowledgment and Notice of Appearance a lead attorney to accept all notices from this Court who, in turn will, be responsible for notifying any associated counsel.

**CHANGE IN CONTACT INFORMATION:** An attorney or pro se party who does not immediately notify the Court when contact information changes will not receive notices, documents and orders filed in the case.

An attorney and any pro se party who is permitted to file documents electronically in CM/ECF must notify the Court of a change to the user's mailing address, business address, telephone number, or e-mail. To update contact information, a Filing User must access PACER's Manage

My Appellate Filer Account, <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-login.pl>. The Court's records will be updated within 1 business day of a user entering the change in PACER.

A pro se party who is not permitted to file documents electronically must notify the Court of a change in mailing address or telephone number by filing a letter with the Clerk of Court.

**CAPTION:** In an appeal, the Court uses the district court caption pursuant to FRAP 12(a), 32(a). For a petition for review or original proceeding the Court uses a caption pursuant to FRAP 15(a) or 21(a), respectively. Please review the caption carefully and promptly advise this Court of any improper or inaccurate designations in writing on the Acknowledgment and Notice of Appearance form. If a party has been terminated from the case the caption may reflect that change only if the district court judge ordered that the caption be amended.

**APPELLATE DESIGNATIONS:** Please review whether appellant is listed correctly on the party listing page of the docket sheet and in the caption. If there is an error, please note on the Acknowledgment and Notice of Appearance Form. Timely submission of the Acknowledgment and Notice of Appearance Form will constitute compliance with the requirement to file a Representation Statement required by FRAP 12(b).

For additional information consult the Court's instructions posted on the website.

Inquiries regarding this case may be directed to 212-857-8638.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
JAMES G. PAULSEN, Regional Director of :  
Region 29 of the National Labor Relations Board :  
for and on behalf of the NATIONAL LABOR : Case No. 16-cv-05338 (BMC)  
RELATIONS BOARD, :  
 :  
 :  
Petitioner, :  
 :  
 :  
v. :  
 :  
 :  
PRIMEFLIGHT AVIATION SERVICES, INC., :  
 :  
Respondent.  
-----X

**NOTICE OF APPEAL**

Notice is hereby given that PrimeFlight Aviation Services, Inc., Respondent in the above-named case, hereby appeals to the United States Court of Appeals for the Second Circuit from the Memorandum Decision and Order (Doc. 24) and the resulting Preliminary Injunction (Doc. 25), entered in this action on October 24, 2016, granting Petitioner's request for preliminary injunction that Respondent immediately recognize the Service Employees International Union, Local 32BJ (the "Union") as the interim collective-bargaining representative of certain of its employees, immediately commence bargaining in good faith with the Union on certain conditions, and take certain related actions.

Dated: New York, New York  
November 17, 2016

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By s/ Frank Birchfield

Frank Birchfield  
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(212) 492-2500  
frank.birchfield@ogleetreedeakins.com

*Attorneys for Respondent  
PrimeFlight Aviation Services, Inc.*

**CERTIFICATE OF SERVICE**

I, Frank Birchfield, hereby certify that upon this date, the foregoing RESPONDENT PRIMEFLIGHT AVIATION SERVICES, INC.'S NOTICE OF APPEAL was electronically filed with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to counsel of record.

I declare under penalty of perjury that the foregoing statements made by me are true and correct.

Dated: November 17, 2016

s/ Frank Birchfield

Frank Birchfield

**U.S. District Court  
Eastern District of New York (Brooklyn)  
CIVIL DOCKET FOR CASE #: 1:16-cv-05338-BMC**

Paulsen v. Primeflight Aviation Services, Inc.  
Assigned to: Judge Brian M. Cogan  
Cause: 29:160(1) National Labor Relations Act

Date Filed: 09/26/2016  
Jury Demand: None  
Nature of Suit: 720 Labor: Labor/Mgt.  
Relations  
Jurisdiction: U.S. Government Plaintiff

**Plaintiff**

**James G. Paulsen**  
*Regional Director of Region 29 of the  
National Labor Relations Board, for and  
on behalf of the National Labor Relations  
Board*

represented by **Brady Francisco-FitzMaurice**  
National Labor Relations Board  
2 Metrotech Center  
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Fax: (718)330-7579  
Email: [brady.francisco-fitzmaurice@nlrb.gov](mailto:brady.francisco-fitzmaurice@nlrb.gov)  
**LEAD ATTORNEY**  
**PRO HAC VICE**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Primeflight Aviation Services, Inc.**

represented by **William Franklin Birchfield**  
Ogletree Deakins  
1745 Broadway, 22nd Floor  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Amicus**

**SEIU Local 32BJ**  
25 West 18th Street  
New York, NY 10011  
212-388-3943

represented by **Brent Garren**  
Service Employees International Union,  
Local 32BJ  
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**Jessica Drangel Ochs**  
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**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
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09/26/2016	<u>1</u>	COMPLAINT ( <i>Petition for Temporary Injunction</i> ) against Primeflight Aviation Services, Inc., filed by James G. Paulsen. (Attachments: # <u>1</u> Civil Cover Sheet) (Davis, Kimberly) (Additional attachment(s) added on 9/27/2016: # <u>2</u> Exhibit A–R) (Davis, Kimberly). (Entered: 09/26/2016)
09/26/2016	<u>2</u>	Unsigned Order to Show Cause by James G. Paulsen (Davis, Kimberly) (Entered: 09/26/2016)
09/26/2016	<u>3</u>	MEMORANDUM in Support re <u>1</u> Complaint ( <i>Petition for Injunction</i> ) filed by James G. Paulsen. (Davis, Kimberly) (Entered: 09/26/2016)
09/26/2016	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice ( <i>Brady Francisco–FitzMaurice</i> ) by James G. Paulsen. (Davis, Kimberly) (Entered: 09/26/2016)
09/26/2016	<u>5</u>	MOTION for Preliminary Injunction ( <i>Exhibits to be filed</i> ) by James G. Paulsen. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Affidavit) (Davis, Kimberly) (Entered: 09/26/2016)
09/26/2016	<u>6</u>	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that <i>if</i> all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically <b>only if all</b> parties wish to consent. The form may also be accessed at the following link: <a href="http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf">http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf</a> . <b>You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent.</b> (Davis, Kimberly) (Entered: 09/26/2016)
09/27/2016	<u>7</u>	ORDER TO SHOW CAUSE dated 9/26/16 that respondent show cause why a temporary injunction should not issue. Show Cause Hearing set for 10/6/2016 at 02:15 PM in Courtroom 8D South before Judge Brian M. Cogan. See Order for further complete details.( Ordered by Judge Brian M. Cogan on 9/26/2016 ) (Guzzi, Roseann) (Entered: 09/27/2016)
09/27/2016		ORDER granting <u>4</u> Brady Francisco–Fitzmaurice's Motion for Leave to Appear Pro Hac Vice as counsel for petitioner. The attorney shall register for ECF, registration is available online at the NYEDs homepage. Once registered, the attorney shall file a notice of appearance and ensure that he receives electronic notification of activity in this case. Also, the attorney shall ensure that the \$150 admission fee be submitted to the Clerk's Office. Ordered by Judge Brian M. Cogan on 9/27/2016. (Weisberg, Peggy) (Entered: 09/27/2016)
09/28/2016	<u>8</u>	CERTIFICATE OF SERVICE by James G. Paulsen (Francisco–FitzMaurice, Brady) (Entered: 09/28/2016)
09/28/2016	<u>9</u>	Letter <i>seeking clarification of Judge Cogan's September 26, 2016 Order to Show Cause</i> by Primeflight Aviation Services, Inc. (Birchfield, William) (Entered: 09/28/2016)
09/28/2016		ORDER re <u>9</u> . There is no need for "clarification." Local Rule 6.1 is expressly subject to "direction in a particular case." This is a 10j petition where the normal time periods are frequently shortened by Order to Show Cause. This Court's Order to Show Cause could not be more clear that the answer to the petition is due 10/3 at 5 pm. If respondent wants to change the time table, it can make a motion to do so. Better yet, it can do what reasonable parties usually do and confer with petitioner and submit an agreed schedule to the Court. Ordered by Judge Brian M. Cogan on 9/28/2016. (Weisberg, Peggy) (Entered: 09/28/2016)
09/29/2016	<u>10</u>	Amicus Curiae APPEARANCE entered by Jessica Drangel Ochs on behalf of SEIU Local 32BJ (Ochs, Jessica) (Entered: 09/29/2016)
09/29/2016	<u>11</u>	MEMORANDUM in Support <i>Memorandum of Law In Support of Motoin For Leave to Appear as Amicus Curiae</i> filed by SEIU Local 32BJ. (Ochs, Jessica) (Entered: 09/29/2016)
09/29/2016	<u>12</u>	Notice of MOTION for More Definite Statement <i>Notice of Motion For Leave To Participate As Amicus Curiae</i> by SEIU Local 32BJ. (Ochs, Jessica) (Entered: 09/29/2016)

		09/29/2016)
09/29/2016		ORDER granting in part <u>12</u> Motion. SEIU may file a brief as amicus. The Court reserves decision on whether and to what degree it will be permitted to participate in the case beyond that. Ordered by Judge Brian M. Cogan on 9/29/2016. (Weisberg, Peggy) (Entered: 09/29/2016)
09/29/2016	<u>13</u>	NOTICE of Appearance by William Franklin Birchfield on behalf of Primeflight Aviation Services, Inc. (aty to be noticed) (Birchfield, William) (Entered: 09/29/2016)
09/29/2016	<u>14</u>	Letter MOTION for Extension of Time to File Response/Reply as to <u>7</u> Order to Show Cause, by Primeflight Aviation Services, Inc.. (Birchfield, William) (Entered: 09/29/2016)
09/29/2016		ORDER re: <u>14</u> . Petitioner to respond in detail why it is unable to agree to a reasonable schedule with respondent by 1:00 p.m. on 9/30/16. Ordered by Judge Brian M. Cogan on 9/29/2016. (Weisberg, Peggy) (Entered: 09/29/2016)
09/30/2016	<u>15</u>	Letter <i>regarding Respondent's request for an extension of time</i> by James G. Paulsen (Francisco-FitzMaurice, Brady) (Entered: 09/30/2016)
09/30/2016		ORDER re: <u>14</u> and <u>15</u> . Respondent has until 10/7/2016 to file its answer to petitioner's motion, and the hearing date is reset to 10/11/2016 at 10:00 am in Courtroom 8D South. Amicus also has until 10/7/2016 to file any papers. Ordered by Judge Brian M. Cogan on 9/30/2016. (Weisberg, Peggy) (Entered: 09/30/2016)
09/30/2016	<u>16</u>	NOTICE of Appearance by Brent Garren on behalf of SEIU Local 32BJ (aty to be noticed) (Garren, Brent) (Entered: 09/30/2016)
10/07/2016	<u>17</u>	MOTION for Leave to File <i>Supplemental Evidence</i> by SEIU Local 32BJ. (Attachments: # <u>1</u> Declaration Declaration of Tessa Lopes Francis with exhibit) (Garren, Brent) (Entered: 10/07/2016)
10/07/2016	<u>18</u>	MEMORANDUM in Support of <i>Petition For Preliminary Injunction</i> filed by SEIU Local 32BJ. (Garren, Brent) (Entered: 10/07/2016)
10/07/2016	<u>19</u>	ANSWER to <u>1</u> Complaint, by Primeflight Aviation Services, Inc.. (Birchfield, William) (Entered: 10/07/2016)
10/07/2016	<u>20</u>	MEMORANDUM in Opposition to <i>Petitioner's Petition for Temporary Injunction Under Section 10(j) of the National Labor Relations Act</i> filed by Primeflight Aviation Services, Inc.. (Birchfield, William) (Entered: 10/07/2016)
10/07/2016	<u>21</u>	AFFIDAVIT/DECLARATION in Opposition re <u>5</u> MOTION for Preliminary Injunction ( <i>Exhibits to be filed</i> ) filed by Primeflight Aviation Services, Inc.. (Attachments: # <u>1</u> Exhibit Exhibit 1) (Birchfield, William) (Entered: 10/07/2016)
10/07/2016	<u>22</u>	AFFIDAVIT/DECLARATION in Opposition re <u>5</u> MOTION for Preliminary Injunction ( <i>Exhibits to be filed</i> ) filed by Primeflight Aviation Services, Inc.. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2, # <u>3</u> Exhibit Exhibit 3) (Birchfield, William) (Entered: 10/07/2016)
10/07/2016	<u>23</u>	AFFIDAVIT/DECLARATION in Opposition re <u>5</u> MOTION for Preliminary Injunction ( <i>Exhibits to be filed</i> ) filed by Primeflight Aviation Services, Inc.. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2) (Birchfield, William) (Entered: 10/07/2016)
10/12/2016		Minute Entry and Order for hearing held before Judge Brian M. Cogan on 10/11/2016. Petitioner, respondent, and amicus curiae all present. The Court heard oral arguments on the petition for a preliminary injunction. The Court reserves judgment. See transcript for details. (CR: Anthony Frisolone). (Weisberg, Peggy) (Entered: 10/12/2016)
10/24/2016	<u>24</u>	MEMORANDUM DECISION AND ORDER dated 10/24/16 that the <u>5</u> Motion for Preliminary Injunction is granted in part. The terms of the preliminary injunction as set forth above will be issued separately. ( Ordered by Judge Brian M. Cogan on 10/24/2016 ) (Guzzi, Roseann) (Entered: 10/24/2016)



10/24/2016	<u>25</u>	PRELIMINARY INJUNCTION.( Ordered by Judge Brian M. Cogan on 10/24/2016 ) (Guzzi, Roseann) (Entered: 10/24/2016)
10/27/2016	<u>26</u>	CERTIFICATE OF SERVICE by James G. Paulsen re <u>25</u> Preliminary Injunction, <u>24</u> Order on Motion for Preliminary Injunction, (Francisco-FitzMaurice, Brady) (Entered: 10/27/2016)
11/09/2016	<u>27</u>	AFFIDAVIT/AFFIRMATION of <i>William Stejskal</i> by Primeflight Aviation Services, Inc. (Attachments: # <u>1</u> Exhibit Exhibit 1, # <u>2</u> Exhibit Exhibit 2) (Birchfield, William) (Entered: 11/09/2016)
11/17/2016	<u>28</u>	NOTICE OF APPEAL as to <u>25</u> Preliminary Injunction by Primeflight Aviation Services, Inc.. Filing fee \$ 505, receipt number 0207-9073280. (Birchfield, William) (Entered: 11/17/2016)